REMARKS

Claims 39, 40, 43-45, 47, 63-73 and 75-86 remain in the application. Claim 74 has been cancelled. Independent claims 39, 43 and 77 have been amended. Claims 1-38, 41-42, 46 and 48-62 were previously cancelled. Entry of the above amendments and favorable reconsideration of this application are requested since the amendments do not raise new issues and place this application in better condition for appeal.

The Amendments

Claim 39 has been amended to specify that the machine direction oriented polymeric film has been oriented in the machine direction at a stretch ratio of about 2:1 to about 9:1. Support for this amendment is found in the specification at page 22, lines 26-27, in original claim 16 and cancelled claim 74.

Independent claims 43 and 77 have been amended to specify that "the compositions of the skin layer(s) are different from the composition of the base layer. Support for this amendment is found in the application, and in particular, in the examples of multilayer films found on pages 34 and 35. In these examples of useful two layer multilayer films and three layer multilayer films, the compositions of the core layers are different from the compositions of the skin layer or layers.

Additional minor amendments have been made to claim 43 to correct obvious typing errors.

The Rejections

I. Claims 39, 40, 43-45, 47 and 63-86 have been rejected under 35 USC §103(a) as being unpatentable over Fujii et al U.S. 5,026,778.

Reconsideration of the rejection of the claims is respectfully requested in view of the above amendments to the claims and the remarks which follow.

All of the claims pending in the application are directed to adhesive containing labelstocks for use in adhesive labels. The adhesive labelstocks comprise a film layer and an adhesive layer adhesively joined to the lower surface of the film. The film may comprise one or more layers: a base layer, and optionally a first skin layer or first and

second skin layers. In the multilayer adhesive containing labelstocks, the adhesive layer is adhesively joined to either the lower surface of the base layer or to the lower surface of the second skin layer when a second skin layer is present in a multilayer film, and the composition of the core layer is different from the compositions of the skin layer(s).

Applicants respectfully submit that the present claims are not obvious over Fujii et al. In particular, as acknowledged by the Examiner there is no teaching or suggestion in Fujii et al of the use of an adhesive layer adhesively joined to the sheets. The Examiner, however, has suggested that the addition of an adhesive layer to either bond the films to another structure or to close the container would be well within the ordinary skill in the art. Reconsideration of this rejection is requested since there is no teaching in Fujii et al which would suggest to or motivate one skilled in the art to add an adhesive layer to the sheets. It is not surprising that Fujii et al do not discuss the use of adhesives since Fujii et al are describing a resin composition and a process for preparing sheets which can be molded and shaped to form various containers.

Reconsideration of the rejection is requested since Fujii et al do not teach or suggest adding an adhesive layer to the sheets described therein, and the Examiner has not cited any prior art that would suggest adding an adhesive to the films of the type described by Fujii for any purpose. The Examiner has stated on page 4 of the final rejection mailed from the Patent Office on July 28, 2005:

> Regarding the use of adhesive layers, the Applicants use the term "adhesive layer" generically. The Examiner takes the position that Applicants are relying upon the common knowledge in the art since a generic term is used. It is clear that one working in the art, even those of less than ordinary skill in the art, would be well versed in the use of adhesive layers.

Applicant respectfully submits that although "adhesive layers" are known to those skilled in the art, the issue, with respect to a rejection under 35 USC §103, is whether it would have been obvious to one of skill in the art to add an adhesive layer to the films described by Fujii et al. Applicant submits that the addition of an adhesive layer to Fujii

et al is not obvious based on the disclosure of Fujii, and the Examiner has cited no art that would have made it obvious to one skilled in the art to prepare an adhesive containing labelstock as presently claimed, based upon the disclosure of Fujii et al.

It is well established that the suggestion of adding an adhesive cannot be based on Applicant's specification. In re Lee, 277 F.3d 1338, 1343, 61 USPQ 2d 1430 (Fed. Cir. 2002).

> The mere fact that the prior art could be so modified would not have made the modification obvious unless the prior art suggested the desirability of the modification. In re Gordon, 733 F.2d. 900, 902, 221 USPQ 1125, 1127 (Fed. Cir. 1984).

Moreover, independent claim 39 (and the claims dependent therefrom) has been amended to recite that the film is "oriented in the machine direction at a stretch ratio of about 2:1 to about 9:1". Previously presented claims 76 and 78 already specify such a ratio. Although Fujii et al have briefly mentioned that the films described therein may be drawn, and the drawing may be conducted by uniaxial orientation by biaxial orientation, (column 7, lines 59-60) there is no teaching or suggestion of a stretch ratio, and more particularly, there is no teaching or suggestion of a machine direction stretch ratio of from about 2:1 to about 9:1. Accordingly, Applicant submits that the above amended claims are not obvious over Fujii et al and the rejection should be withdrawn.

With respect to the presently claimed labelstocks comprising a multilayer film and an adhesive layer, i.e., claims 43, 44, 47 and 75-86, (all presently amended) such claims additionally would not be obvious over Fujii et al's mention that molded articles (containers) could be prepared from single layer sheets or multilayer sheets in column 7, lines 15-17. Applicants respectfully submit that Fujii et al are suggesting the use of more than one sheet of the type described in the '778 patent. Applicant has not found any disclosure in Fujii et al of multi-layer sheets, and more particularly, Applicants have not found any teaching or suggestion in Fujii et al of multilayer films such as those described in claims 43, 44, 47 and 75-86 where the composition of the core layer is different from the composition of the skin layer(s).

Claims 76 and 86 further specify that the multilayer films are oriented by stretching in the machine direction at a stretch ratio of about 2:1 to about 9:1. Machine direction orientation of multilayer films at these stretch ratios is not taught or suggested by Fujii et al.

In view of the limited teachings of Fujii et al, the Examiner is requested to reconsider and withdraw the rejection of the claims based on Fujii et al.

II. Claims 39, 40, 43-45, 47 and 63-86 have been rejected under 35 USC §103(a) as being unpatentable over Kozimor et al U.S. 6,231,936.

Kozimor et al teach blends of polypropylene, metallocene catalyzed polyethylene and nucleating agents which are radiation tolerant, and articles prepared from such blends. The Examiner has suggested (page 3 of the final rejection):

> "These materials can be used in the production of multilayer article or single layer articles, in which the polymers may be uniaxially oriented....
>
> While the Applicants claim three layer structures there is nothing that differentiates the components of the three layers, and the core could comprise the same components as the surface layers, it appears on its face that a three layer structure made from the polymers in question would meet the claims. Minor variations in the components would have been obvious based on the use of the film e.g., the use of slip agents, colorants, etc....
>
> Since these structures are used for various applications, it would have been obvious to one of ordinary skill in the art to have used adhesives where necessary.

Reconsideration and withdrawal of this rejection as applied to the pending amended claims is solicited. With regard to Applicant's claims utilizing a two or three layer film, Applicant respectfully submits that the two and three layer films utilized in the labelstocks of the present invention are different and unobvious from any multilayer structure described by Kozimor et al. The only discussion of a multilayer structure

found in Kozimor is in column 8, line 13 where Kozimor states that useful "devices include food packaging material comprising film and a self supporting multilayer structure which includes: (1) metal foil, (2) cellulosic material, (3) opaque plastic film, or combinations thereof". Applicant has not been able to find any disclosure or suggestion in Kozimor et al that the films prepared from the radiation tolerant polypropylene may comprise two or more layers, and surely no three layer structure made from Kozimor's polymers that would meet the present claims.

In any event, the rejection of the pending claims directed to adhesive-containing labelstock as being obvious because "it would have been obvious to one of ordinary skill in the art to have used adhesives where necessary" finds no support in Kozimor et al. While the Examiner is correct in indicating that Kozimor's structures can be used for various applications, those applications discussed in detail in column 8, line 14 through column 9, line 27 include articles and devices which include food packaging materials, medical devices, lab ware bottles for culture growth, liquid storage containers such as bags, pouches and bottles, etc. Kozimor et al describes that the devices may be made or formed by any useful forming means. Column 4, lines 11-21.

There is no disclosure in Kozimor et al of the use of an adhesive layer in combination with the articles and devices, and it is respectfully submitted that Kozimor et al have not described any application wherein one skilled in the art would normally use adhesive layers. More particularly, there is no suggestion of utilizing the radiation tolerant polypropylene compositions (either monolayer or multilayer) for preparing adhesive containing labelstocks for use in preparing adhesive labels.

Moreover, with regard to amended claim 39, and claims 76 and 78, there is no teaching or suggestion in Kozimor of a monolayer or multilayer film oriented in the machine direction at a stretch ratio of from about 2:1 to about 9:1. The rejection of at least these claims should be withdrawn.

Related Applications

In the response filed on April 29, 2005, Applicants informed the Examiner of copending Application Serial No. 10/939,086 filed September 10, 2004 which contains

related subject matter. Applicant also wishes to inform the Examiner of copending application Serial No. 11/127,887 filed May 12, 2005. This application is being examined in Art Unit 1772 by Examiner N. Ahmad. A Second Supplemental Information Disclosure Statement accompanies the present Amendment to identify two U.S. Patents cited in Serial No. 11/127,887 which have not been cited herein.

Conclusion

In view of the above comments and the amendments to the claims, Applicant respectfully submits that all of the claims pending in the application are allowable over the prior art. In particular, the claims of the present application are not obvious over Fujii et al or Kozimor et al. An early action allowing all of the claims is solicited.

In the event any fees are due in connection with the filing of this document, the Commissioner is authorized to charge those fees to our Deposit Account No. 18-0988 under Attorney Docket No. **AVERP3302USB**.

Respectfully submitted,

RENNER, OTTO, BOISSELLE & SKLAR, LLP

By Armand P. Boisselle
Armand P. Boisselle
Reg. No. 22,381

1621 Euclid Avenue
Nineteenth Floor
Cleveland, Ohio 44115
(216) 621-1113